IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.93 OF 2006
IN
NOTICE OF MOTION NO.2598 OF 2003
IN
SUIT NO.1891 OF 2003

Piroza Homi Sanjana & ors. Appellants
vs.
Kersi Viraf Mehta & ors. Respondents

Mr.R.S.Jaisinghani with Mr.Munir Merchant i/b.Mr.Munir Merchant for the appellants.

Ms.Shakuntala Joshi for the respondent no.1.

CORAM : R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED : 20th February 2006

P.C.

We perused the prayers made in the notice of motion. Prayer (a) in the notice of motion reads thus:

> a) that pending the hearing and final disposal of this suit, this Hon'ble Court be pleased to pass an order and injunction restraining defendant no.2 from taking any steps to attach and/or sell the property of the plaintiffs comprised in the said Deeds of Lease and Rectification, Exhibits E and F to the plaint, pursuant to any interim and/or final orders that may be or may have been obtained by defendant No.2 in O.A.Nos.740 and 741 filed by defendant no.2 in Debt Recovery Tribunal-II.

2. We find no justification for grant of such prayer made in the notice of motion. The fact that the Power of Attorneys have been declared as forged and fabricated

by the City Civil Court is not in dispute. Based on that the plaintiffs who had filed the Suit for cancellation of Lease Deed and rectification (Exhibits E and F attached to the plaint) must appear before the Debts Recovery Tribunal-II where he has already been impleaded as party respondent and make necessary submission. However, no interim relief can be granted restraining defendant no.2 from taking any steps to attach or sell the property of the plaintiffs in view of the fact that the proceedings are pending before the Debts Recovery Tribunal-II.

3. The appeal is dismissed in limine.

(R. M. LODHA, J.)

(ANOOP V. MOHTA, J.)